

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

STEVEN CHECCHIA, on behalf of himself	:	Civil Action
and all others similarly situated,	:	
	:	No. 21-3585
Plaintiff,	:	
	:	
v.	:	
	:	
BANK OF AMERICA, N.A.,	:	
	:	
Defendant.	:	

**ORDER PRELIMINARILY APPROVING CLASS SETTLEMENT
AND CONDITIONALLY CERTIFYING CLASS FOR SETTLEMENT PURPOSES**¹

AND NOW, this 16th day of February 2023, upon consideration of Plaintiff's Unopposed Motion for Preliminary Approval of Class Settlement and for Certification of Class (ECF. No. 17), it is **ORDERED** that Plaintiff's unopposed motion is **GRANTED**, as follows:

1. The proposed Class Action Settlement Agreement and Release is preliminarily approved under Federal Rule of Civil Procedure 23.
2. The Settlement Class is conditionally certified for settlement purposes only. The Settlement Class is defined as follows:
 - a. All Accountholders of BANA consumer checking and/or savings accounts ("Accounts") in the United States who, during the Class Period, paid and were not refunded a NSF Fee and/or OD Fee in connection with: (a) an ACH entry on their Account that was submitted by the merchant or the merchant's bank with a "REDEP CHECK" indicator; or (b) a physical check (not an ACH transaction) that was re-presented for payment after having initially been returned for non-sufficient funds and charged an NSF Fee within the preceding 28 calendar days.

Excluded from the Settlement Class is BANA, its parents, subsidiaries, affiliates, officers and directors, all Settlement Class

¹ First-letter capitalized terms in this Order shall, unless otherwise defined herein, have the same meaning and definition as in the Settlement Agreement.

- members who make a timely election to optout, and all judges assigned to this litigation and their immediate family members;
- b. Within the Settlement Class Period beginning on May 19, 2017 and ending on the date of Preliminary Approval.
 3. The named Plaintiff, Steven Checchia, is designated as Class Representative.
 4. The following attorneys and firms are appointed as Class Counsel:
 - a. Jeff Ostrow and Jonathan M. Streisfeld of Kopelowitz Ostrow P.A.; Jeffrey D. Kaliel of KalielGold PLLC; and Kenneth J. Grunfeld of Golomb Spirt Grunfeld, P.C.
 5. Epiq Class Action & Claims Solutions, Inc. is appointed as the Settlement Administrator.
 6. The dissemination of Class Notice is approved as follows:
 - a. The protocol for dissemination of notice to the Settlement Class, as set forth in Section 5 of the Settlement Agreement and Release, is approved.
 - b. The templates of the Email Notice, Postcard Notice, and Long Form Notice, attached as Exhibit 1, Exhibit 2, and Exhibit 3 to the Settlement Agreement and Release, respectively, are approved. Class Counsel and BANA's Counsel will implement immaterial changes to those notices as necessary to effectuate the Notice Plan.
 7. A Final Fairness Hearing is scheduled for **July 24, 2023**, at 12:00 p.m., in Courtroom 8A of the James A. Byrne United States Courthouse, 601 Market Street, Philadelphia, PA.
 8. The Settlement Administrator shall complete the Mailed Notice Program no later than 60 days before the Final Fairness Hearing, or **May 25, 2023**.

9. Plaintiffs shall file his Motion for Final Approval no later than 45 days before the Final Fairness Hearing, or **June 9, 2023**.
10. The Opt-Out procedure set forth in Paragraph 9.1 of the Settlement Agreement and Release is approved. Opt-Outs must be postmarked no later than thirty day prior to the Final Fairness Hearing, or **June 24, 2023**.
 - a. The Settlement Administrator shall provide Class Counsel and BANA's counsel a list of Successful Opt-Outs within five business days of the Opt-Out Deadline, or **June 30, 2023**.
11. The objection procedure set forth in Paragraph 9.4 of the Settlement Agreement and Release is approved. Objections must be postmarked on or before thirty days prior to the Final Fairness Hearing, or **June 24, 2023**.
 - a. Any objector who wishes to appear at the Final Fairness Hearing, either personally or through counsel, must file a Notice of Intent to Appear on or before the Objection Deadline, **June 24, 2023**. The Notice of Intent to Appear must comply with the requirements of Paragraph 9.4.7 of the Settlement Agreement.
12. The parties shall file their responses to timely filed objections no later than 10 days before the Final Fairness Hearing, or **July 14, 2023**.
13. If Final Approval of the Settlement is not obtained, the Settlement is null and void, and the Parties will revert to their positions ex ante without prejudice to their rights, claims, and defenses.
14. Any appeal of the Court's order on the motion for the Fee and Cost Award or the motion for a Service Award shall have no effect on the Court's Final Approval of

the Settlement.

15. The Class Representative, Class Counsel, and all Settlement Class Members, other than those who are Successful Opt-Outs, are hereby preliminarily enjoined and prohibited from commencing, prosecuting, or assisting in any lawsuit against the Released Parties that asserts or purports to assert matters within the scope of the Release during the time between entry of the Preliminary Approval Order and final determination by the Court regarding whether to grant Final Approval of the Settlement.

IT IS SO ORDERED.

BY THE COURT:

/s/ *R. Barclay Surrick*
R. BARCLAY SURRICK, J.